

Commentary: This section provides incentives for developers who provide open space, housing that reinforces income diversity, and other community benefits in keeping with the goals of Cornerstone 2020. In brief, in return for these community benefits, this section will permit developers to reduce lot sizes in subdivisions and more closely approximate the allowable density under the applicable zoning district regulations. The greater the benefits offered, the higher the density allowed, within the limit established by the site's zoning classification.

The following terms relating to Alternative Development Incentives are included in the Definitions (Chapter 1 Part 2):

Adjacent, Diversity Housing Unit, Brownfield, Clubhouse, Community Center, Low-moderate Income, Major transit corridor, Qualified Buyer, Qualified Buyer Verification Form.

4.5.1 Purpose

The intent of these alternative development incentives is to foster residential development in furtherance of the Cornerstone 2020 Plan. This section sets forth a menu of development incentives that, while maintaining current zoning district densities, allows reduction of lot sizes in return for provision of open space, housing diversity, preservation of cultural resources, and efficient land use (building near major transit corridors and building on brownfields) in larger residential developments. This regulation implements the following portions of Cornerstone 2020:

Community Form Goals and Objectives C1, C2, C2.6, C2.7, C3, C3.1, C3.2
Community Form Goals and Objectives K1, K1.2, K2, K2.1
Livability Goals and Objectives F1, F1.2, F2, G1, G1.3
Guidelines 3, 4 and 5.

4.5.2 Applicability and Maximum Residential Density

Residential subdivisions located in the R-4 or R-5 Single Family Zoning District that create five or more lots in accordance with the procedures for major subdivisions and provide at least ten percent of Level 1 or 2 Diversity Housing as defined herein, are eligible for the incentives set forth in this section, unless the subdivision is located in a Qualified Neighborhood A, in which case, at least ten percent of any level of Diversity Housing shall be provided. The number of dwelling units created in accordance with this regulation may not exceed the number which is theoretically possible according to the rules of the applicable zoning district. The maximum is determined by multiplying the total site acreage by the applicable maximum density (dwelling units per acre) listed in Table 4.5.2. Proposed developments or portions thereof located more than one mile from a major transit corridor or an existing major or minor arterial classification roadway shall not be eligible for maximum gross densities to exceed 4.0 dwelling units per acre in the R-4 zoning district and 5.8 dwelling units per acre in the R-5 zoning district. The distance shall be measured using a straight line from the arterial or transit corridor street centerline.

If the proposed development falls partially within and partially outside one mile of an arterial or transit corridor, measured as described above, the maximum density of the development shall be calculated as follows:

R-4 District: the percentage of land in the development that lies within the one mile distance multiplied by 4.84, plus the percentage of land that is outside the one mile distance multiplied by 4.0.

R-5 District: the percentage of land in the development that lies within the one mile distance multiplied by 7.26, plus the percentage of land that is outside the one mile distance multiplied by 5.8.

4.5.3 Basis for Incentives

- A. Common Open Space:** In order to qualify for reduced lot areas based on common open space the subdivision shall provide open space that is permanently preserved from development in open space lots, and meets applicable provisions of the Open Space Standards (Part 10.5). If a subdivision is located in a form district that requires provision of open space, the amount of required open space shall not be considered in determining the basis for incentives. Open space areas that do not abut a public or private street shall measure no less than 50 feet in any dimension, to qualify for this incentive.
- B. Public Open Space:** In order to qualify for reduced lot area based on public open space the subdivision shall provide open space that is permanently preserved from development in open space lots, accessible to the general public and meets applicable provisions of the Open Space Standards (Part 10.5). If a subdivision is located in a form district that requires provision of open space, the amount of required open space shall not be considered in determining the basis for incentives. Open space areas that do not abut a public or private street shall measure no less than 50 feet in any dimension, to qualify for this incentive.

Urban League and the Housing Partnership are current examples of home ownership counseling programs.

- C. Diversity Housing Levels 1 and 2:** In order to utilize Alternative Development Incentives, proposed subdivisions shall provide a minimum of ten percent of Diversity Housing units at Level 1 or Level 2, unless the development is located in a Qualified Neighborhood A. Level 1 units shall be sold for a total price no greater than 2.5 times the current low-moderate income limit for a given household size; Level 2 units shall be sold for a total price no greater than 2.75 times the current low-moderate income limit. Subdivision lots intended for Level 1 or 2 units shall be identified at the time of submittal of the subdivision preliminary plan. Lots shall be identified in a manner adequate to determine their location and calculate the incentive. The location of lots sold for Level 1 or 2 units may vary from those identified on the preliminary plan, however, the developer/owner shall be responsible for submitting an update report at 6-month intervals from the date of the recording of the record plat until the number of lots designated as Level 1 or 2 units have been sold. The update report shall identify the name of the recorded subdivision, the plat book and page number of the record plat, the actual lot numbers sold for Level 1 or 2 units, the name of the buyers, the type of units (detached unit/patio home/townhouse), the number of bedrooms, and the sale price of units. With the update report, the developer/owner shall submit deeds or other appropriate documentation and Qualified Buyer Verification Forms for all lots utilized to fulfill this incentive.

“Add-Ons” that increase the sales price of Diversity Housing units beyond the stated price limits are not permissible.

Level 1 and 2 units must initially be sold to a Qualified Buyer. Dwellings constructed on such lots shall be sold to the initial occupants at a price no greater than the diversity housing price limit in effect at that time [see Part 1.2, Definitions.]. Subsequent sale of the diversity units does not require any qualification of the buyers.

The Housing Authority and non-profit home ownership counseling programs that have registered with the Commission shall be notified by DPDS staff about the Level 1 and 2 diversity units at the time of submittal of the preliminary subdivision plan

- D. Diversity Housing Levels 3 and 4:** In order to encourage subdivision developments to offer a mixture of housing prices, developments that include Level 3 and 4 housing units may qualify for reduced lot area under these regulations. Level 3 units shall be sold for a total price no greater than 3.0 times the current low-moderate income limit for a given household size; Level 4 units shall be sold for a total price no greater than 3.25 times the current low-moderate income limit. Lots intended for diversity housing units shall be identified on the subdivision preliminary plan, and an update report submitted at 6-month intervals, as described in Item C. above.

NOTE: *Reduced filing fees are recommended for subdivisions with 20% or more diversity units.*

- E. Qualified Neighborhoods:** Qualified Neighborhood A includes those census tracts defined by the most recent census as having more than 20% of households below poverty level. New developments or re-developments in Qualified Neighborhood A that build houses priced at the Level 3 or higher shall be eligible for incentives under these regulations, without having to provide any Level 1 or 2 units.

Qualified Neighborhood B includes those census tracts defined by the most recent census as having the median household income at 150% or greater of the median household income for Jefferson County. New developments or re-developments in Qualified Neighborhood B that build diversity units shall be eligible for incentives under these regulations.

The applicant shall submit appropriate census data information with applications that request incentives for this item.

F. Preservation of Cultural Resources: In order to qualify for reduced lot area based on preservation of cultural resources, the subdivision shall permanently protect and maintain a qualifying resource. Qualifying resource includes historic properties and archeological sites listed in the National Register of Historic Places; sites determined to be eligible for the National Register; and property surrounding National Register/eligible sites the preservation of which is determined by the Louisville Metro Historic Landmarks Commission to contribute to the site's historic value. The Historic Landmarks Commission shall review the proposal prior to approval of the preliminary plan. At the time of recording the plat, the developer shall grant a conservation easement or other means to ensure permanent protection and maintenance, in a form and to a recipient acceptable to the Historic Landmarks Commission, the Planning Commission legal counsel, and the recipient.

G. Efficient Land Use: In order to utilize existing infrastructure, stabilize existing neighborhoods, and shorten the distance between homes and jobs, developments near major transit corridors and in brownfields may qualify for reduced lot area under these regulations.

- 1. Major Transit Corridors:** Developments or portions thereof that are within 3/4 mile of a major transit corridor may qualify for reduced lot area points. The distance shall be measured by the shortest walking distance from the transit corridor to each lot created under these incentives.
- 2. Brownfields:** Development on brownfields may qualify for reduced lot area points. In order to qualify for reduced lot area, the applicant shall demonstrate that environmental degradation of the proposed development site has been remediated to a level appropriate for residential use, as indicated by issuance by the Commonwealth of Kentucky of a covenant not to sue.

NOTE: *Reduced filing and processing fees for developments in brownfields under these regulations are recommended.*

H. Future Roadway Accommodation: Land dedicated for right-of-way for future roadways shown in the Comprehensive Plan, the six-year plan, or an approved road alignment study, and with approval from Louisville Metro Director of Works, shall be eligible for incentive points. For purposes of calculating incentive points, the area dedicated as right-of-way may be combined with common or public open space lands. Right-of-way dedication for widening of existing roads in accordance with Table 6.2.1 shall not qualify for incentive points.

4.5.4 Review Procedure

Any proposal for a major subdivision meeting the criteria established in this section shall be granted a reduction in minimum lot size and setback requirements as established in the applicable form district; maximum gross density shall not exceed the limits established in Table 4.5.2. The review procedure shall be in accordance with Chapter 7 (Subdivision Regulations).

4.5.5 Maximum Gross Density

Proposed subdivisions shall receive points based on the criteria set forth in Table 4.5.1. Points shall be totaled to calculate the maximum gross density as set forth in Table 4.5.2. Sites that qualify for less than 3 points are not entitled to any alternative development incentive. Gross density shall be interpolated for sites that qualify for 3.5 through 14.5 points.

4.5.6 Compatibility with Adjacent Residential Development

Reduced size lots authorized by this section shall be designed and located so that impacts on adjacent previously approved residential development are minimized. To achieve this purpose, proposed subdivisions with reduced size lots shall meet each of the following design standards applicable to a given site.

- A. Proposed subdivisions with reduced size lots that are directly across a public right-of-way or private access easement from a recorded subdivision or single family residential structures having an average front or street side yard with a variation in depth of not more than 10 feet shall meet the following standard: Building limit lines shall be recorded for those parcels across the street/access easement from existing development that equal the average dimensions of established front and street side yards of the existing development.
- B. Perimeter parcels of the proposed development that are adjacent to property zoned for residential use shall comply with one of the following:
 - 1. The perimeter parcels shall be developed with detached single family homes meeting the minimum lot size and dimensional requirements of the underlying zoning/form district; or
 - 2. The applicant submits a written consent on an approved form supplied by Planning and Design Services signed by each adjacent property owner agreeing to an alternative standard, said form shall be signed after the neighborhood meeting required by Section 7.2.10 is held; or
 - 3. The adjacent property is developed with an intensity greater than or equal to the perimeter parcels; or
 - 4. A buffer area shall be provided on the perimeter parcel consisting of one of the following:
 - a. A 75 foot wide open space lot; or

- b. A 40 foot wide open space lot planted with 2 staggered rows of trees, a mixture of 2/3 canopy trees and 1/3 evergreen trees, with trees in each row placed no more than 20 feet apart, or other planting plan using the same quantity and type of trees and approved by DPDS staff; or
- c. A 50 foot wide area containing an existing woodland or tree stand, designated as a Woodland Protection Area.

In conjunction with b. and c. above, a minimum 20 foot building limit setback shall be provided on the adjacent buildable residential lots.

4.5.7 Wastewater Treatment Requirement

Any lots approved pursuant to this section that are less than five acres shall be developed only if served by a wastewater treatment facility approved by the Health Department or other agency having approval authority.

4.5.8 Housing Types/Minimum Lot Size and Dimensional Requirements

Housing types and minimum yards for dwellings constructed are defined in the applicable form district regulation (see [Section 5.2.2 D](#) (Traditional Neighborhood) or [Section 5.3.1 D](#) (Neighborhood)).

4.5.9 Required Outdoor Recreation Open Space

Developments containing detached and semi-detached units on lots less than 6000 sq. ft. in the R-4 District or lots less than 4000 sq. ft. in the R-5 District shall provide Outdoor Recreation Open Space within the development. The amount of Outdoor Recreation Open Space required by this section shall be calculated as follows:

- R-4: 1500 sq. ft. for each lot less than 6000 sq. ft.
- R-5: 1000 sq. ft. for each lot less than 4000 sq. ft.

TABLE 4.5.1—COMMUNITY BENEFITS

Chapter 1 BENEFIT	POINTS PO
<i>Open Space: Neighborhood Form*</i>	
Minimum of 20% of land set aside for common or public open space, or	1.5
Minimum of 30% of land set aside for common or public open space, or	2.5
Minimum of 40% of land set aside for common or public open space, or	3
Minimum of 50% of land set aside for common or public open space, or	3.5
<i>Open Space— Traditional Neighborhood Form*</i>	
Minimum of 5% of land set aside for common or public open space, or	1
Minimum of 10% of land set aside for common or public open space, or	1.5
Minimum of 20% of land set aside for common or public open space	2.5
<i>Diversity Housing Level 1 and 2</i>	
At least 10% but less than 15% of units are Level 1 or 2, or	3
At least 15% but less than 20% of units are Level 1 or 2, or	4.5
20% to 50% of units are Level 1 or 2, or	5.5
Over 50% of units are Level 1 or 2	3.5
Additional credit if at least 50% of these diversity units restricted to the Level 1 diversity housing price range ⁴	**

*Land dedicated for future roadway accommodation, in combination with open space land or solely for right-of-way, qualifies for incentive points as listed here for open space.

** 50% of above listed, Diversity Housing Points as additional credit.

Additional credit if 30% to 50% of Level 1 or 2 units are developed as detached single family units, or	2
Additional credit if over 50% of Level 1 or 2 units are developed as detached single family units	3
Chapter 2 Diversity Housing Level 3 and 4	
Chapter 3 At least 10% but less than 20% of units are Level 3 or 4 units, or	2
20% to 50% of units are Level 3 or 4 units, <u>or</u>	2.5
Over 50% of units are Level 3 or 4 units	2
Additional credit if at least 50% of these diversity units are restricted to the Level 3 diversity housing price range	1
Qualified Neighborhoods	
Development is in a Qualified Neighborhood <u>A</u> and at <u>Level 3</u> housing price or higher	3.5
Development is in Qualified Neighborhood B and qualifies for points for providing Level 1 or 2 housing, or	2
Development is in Qualified Neighborhood B and qualifies for points for providing Level 3 or 4 housing	1
Protection of Cultural Resources	
Chapter 4 Preservation of Historic Resource	2
Preservation of significant additional property surrounding a Cultural Resource that enhances its cultural value, as determined by the Historic Landmarks and Preservation District Commission	2
Efficient Land Use	
Near major transit corridor	2.5
Brownfield site	6

For purposes of illustration, the Jefferson County income limits and housing price limits for 2004 are as follow:

	1 Bedroom	2 Bedrooms	3 Bedrooms	4 Bedrooms
<i>Low-moderate Income (80% of Median)</i>	\$37,250	\$41,990	\$46,550	\$50,300
<i>Level 1 House Price</i>	\$93,130	\$104,750	\$116,380	\$125,750
<i>Level 2 House Price</i>	\$102,440	\$115,230	\$128,010	\$138,330
<i>Level 3 House Price</i>	\$111,750	\$125,700	\$139,650	\$150,900
<i>Level 4 House Price</i>	\$121,060	\$136,180	\$151,290	\$163,480

Note: Low-moderate income levels for the Louisville MSA are updated annually. This information is available from the US Department of Housing and Urban Development website. Refer to Section 8 income limits as posted at www.huduser.org/Datasets.

Table 4.5.2 Maximum Permitted Gross Density*

Zoning District		3 pt	4 pts	5 pts	6 pts	7 pts	8 pts	9 pts	10 pts	11 pts	12 pts	13 pts	14 pts	15 pts
R-4		3.3	3.4	3.5	3.6	3.7	3.8	3.9	4.0	4.1	4.2	4.4*	4.6	4.84
R-5		4.4	4.6	4.8	5.0	5.2	5.4	5.6	5.8	6.0	6.2	6.5*	6.8	7.26

* Portions of proposed developments located more than one mile from a major transit corridor or an existing major or minor arterial classification roadway shall not be eligible for maximum gross densities to exceed 4.0 dwelling units per acre in the R-4 zoning district and 5.8 dwelling units per acre in the R-5 zoning district utilizing the Alternative Development Incentives. The maximum permitted density in developments located partially within and partially outside the one mile distance is set forth in Section 4.5.2.